



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-R04-OAR-2018-0173; FRL-9982-71-Region 4]

Air Plan Approval and Air Quality Designation; AL;

Redesignation of the Etowah County Unclassifiable Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On March 22, 2018, the State of Alabama, through the Alabama Department of Environmental Management (ADEM), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Etowah County, Alabama fine particulate matter (PM_{2.5}) unclassifiable area (hereinafter referred to as the “Etowah County Area” or “Area”) to attainment for the 2006 primary and secondary 24-hour PM_{2.5} national ambient air quality standards (NAAQS). EPA is approving the State’s request and redesignating the Area to unclassifiable/attainment for the 2006 primary and secondary 24-hour PM_{2.5} NAAQS based upon valid, quality-assured, and certified ambient air monitoring data showing that the PM_{2.5} monitor in the Area is in compliance with the 2006 primary and secondary 24-hour PM_{2.5} NAAQS.

DATES: This rule will be effective **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2018-0173. All documents in the docket are listed on the www.regulations.gov

web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Madolyn Sanchez, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Sanchez can be reached by telephone at (404) 562-9644 or via electronic mail at sanchez.madolyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On September 21, 2006, EPA revised the primary and secondary 24-hour NAAQS for PM_{2.5} at a level of 35 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), based on a 3-year average of the annual 98th percentile of 24-hour PM_{2.5} concentrations. *See* 71 FR 61144 (October 17, 2006).

EPA established the standards based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to particulate matter.

The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d)(1) of the Clean Air Act (CAA). EPA and state air quality agencies initiated the monitoring process for the 1997 PM_{2.5} NAAQS in 1999, and deployed all air quality monitors by January 2001. On October 8, 2009, EPA designated areas across the country as nonattainment, unclassifiable, or unclassifiable/attainment¹ for the 2006 24-hour PM_{2.5} NAAQS based upon air quality monitoring data from these monitors for calendar years 2006-2008. *See* 74 FR 58688. The monitor in the Etowah County Area had incomplete data for the 2006-2008 timeframe. Therefore, EPA designated Etowah County as unclassifiable for the 2006 24-hour PM_{2.5} NAAQS. *Id.*

On March 22, 2018, Alabama submitted a request for EPA to redesignate the Etowah County Area to unclassifiable/attainment for the 2006 24-hour PM_{2.5} NAAQS now that there is sufficient data to determine that the Area is in attainment. In a notice of proposed rulemaking (NPRM) published on June 1, 2018 (83 FR 25422), EPA proposed to approve the State's redesignation request. The details of Alabama's submittal and the rationale for EPA's actions are further explained in the NPRM. EPA did not receive any adverse comments on the proposed action.

II. Final Action

¹ For the initial PM area designations in 2009 (for the 2006 24-hour PM_{2.5} NAAQS), EPA used a designation category of "unclassifiable/attainment" for areas that had monitors showing attainment of the standard and were not contributing to nearby violations and for areas that did not have monitors but for which EPA had reason to believe were likely attaining the standard and not contributing to nearby violations. EPA used the category "unclassifiable" for areas in which EPA could not determine, based upon available information, whether or not the NAAQS was being met and/or EPA had not determined the area to be contributing to nearby violations. EPA reserves the "attainment" category for when EPA redesignates a nonattainment area that has attained the relevant NAAQS and has an approved maintenance plan.

EPA is approving Alabama's redesignation request and redesignating the Etowah County Area from unclassifiable to unclassifiable/attainment for the 2006 24-hour PM_{2.5} NAAQS.²

III. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to unclassifiable/attainment is an action that affects the status of a geographical area and does not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to unclassifiable/attainment does not in and of itself create any new requirements. Accordingly, this action merely redesignates an area to unclassifiable/attainment and does not impose additional requirements. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because redesignations are exempted under Executive Order 12866;
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

² Although Alabama requested redesignation of the Area to "attainment," EPA is redesignating the area to "unclassifiable/attainment" because, as noted above, EPA reserves the "attainment" category for when EPA redesignates a nonattainment area that has attained the relevant NAAQS and has an approved maintenance plan.

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

This final redesignation action is not approved to apply to any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the

rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: August 8, 2018.

Onis “Trey” Glenn, III

Regional Administrator,

Region 4.

40 CFR part 81 is amended as follows:

PART 81 – DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. The authority citation for part 81 continues to read as follows:

Authority: 42.U.S.C. 7401, *et seq.*

2. In § 81.301, the table entitled “Alabama-2006 24-Hour PM_{2.5} NAAQS (Primary and secondary)” is amended by revising the entry for “Etowah County” to read as follows:

§ 81.301 Alabama.

* * * * *

ALABAMA-2006 24-HOUR PM_{2.5} NAAQS
[Primary and secondary]

Designation area	Designation ^a		Classification	
	Date ¹	Type	Date	Type
**	**	*	*	*
Etowah County	<u>[Insert date of publication in the Federal Register]</u>	Unclassifiable/Attainment.		
**	**	*	*	*

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is 30 days after November 13, 2009, unless otherwise noted.

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[FR Doc. 2018-18034 Filed: 8/20/2018 8:45 am; Publication Date: 8/21/2018]